



PRESENT:

Mr. Daniel A. Gecker, Chairman
Mr. Russell J. Gulley, Vice Chairman
Mr. Jack R. Wilson, III
Mr. Sherman W. Litton
Mr. F. Wayne Bass
Mr. Kirkland A. Turner, Secretary to the Commission,
Planning Director

ALSO PRESENT:

Ms. Beverly F. Rogers, Assistant Director, Zoning and
Special Projects Section, Planning Department
Ms. Jane Peterson, Planning and Special Projects Manager,
Zoning and Special Projects Section, Planning Department
Ms. Darla W. Orr, Planning and Special Projects Manager,
Zoning and Special Projects Section, Planning Department
Ms. Teresa C. Davis, Planning and Special Projects Coordinator,
Zoning and Special Projects Section, Planning Department
Ms. Michelle L. Martin, Secretary, Administrative Section,
Planning Department
Ms. Lisa Caudill, Secretary,
Administration Branch, Planning Department
Mr. David W. Robinson, Assistant County Attorney,
County Attorney's Office
~~Ms. Tara McGee, Assistant County Attorney,
County Attorney's Office~~
Mr. Allan M. Carmody, Director,
Budget and Management Department
Mr. R. John McCracken, Director,
Transportation Department
Mr. Richard M. McElfish, Director,
Environmental Engineering Department

Mr. Scott Flanigan, Water Quality Manager,
Environmental Engineering Department
Mr. Randolph Phelps, Senior Engineer,
Utilities Department
Assistant Fire Marshal John P. Jones,
Fire Department
Dr. Mike Etienne, Communications Specialist,
Planning Department, School Administration

7:00 P. M. PUBLIC MEETING AND HEARING

Mr. Gecker, Chairman, called the reconvened public meeting and hearing to order at 7:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building in the Government Center Complex, noting the meeting was a continuation from the April 17, 2007, meeting.

A. INVOCATION.

Mr. Gulley presented the invocation.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Mr. Turner led the Pledge of Allegiance to the Flag.

C. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Gecker asked, per the applicant's representative's request, that Case 07SN0152, Patricia A. Patton and Michael and Myrna T. McCaffery, be moved to after Case 07SN0275, Jared Swanson.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission amended the agenda to move Case 07SN0152, Patricia A. Patton and Michael and Myrna T. McCaffery, after Case 07SN0275, Jared Swanson.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

D. REVIEW MEETING PROCEDURES.

Mr. Turner reviewed the meeting procedures for rezonings and conditional uses.

E. CONSIDERATION OF THE FOLLOWING REQUESTS:

- ◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

06SN0234: In Matoaca Magisterial District, **ROBERT SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development

to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.2 units per acre or less. This request lies on 220.2 acres fronting the north and south lines of Quailwood Road approximately 1,500 feet west of Bailey Bridge Road, also lying at the northern terminus of Holly View Parkway. Tax IDs 732-672-9726 and 733-673-8753.

Ms. Peterson presented an overview of the request and staff's recommendation for denial of the rezoning, noting that while the proposed zoning and land uses conformed to the *Upper Swift Creek Plan*, the application failed to address the traffic impact with respect to construction of turn lanes and the collector road through the property and the proffered conditions did not mitigate the impact on road facilities. She stated the *Thoroughfare Plan* denoted a proposed North/South collector road extending through the subject property which would cross Swift Creek and require a substantial structure; that the applicant proffered to dedicate right of way through the property and to construct a two (2) lane road prior to the recordation of more than 200 lots; that Proffered Condition 11 allowed the developer to receive reimbursements from the transportation contribution of the cash proffer toward the construction of the collector road and also allowed reimbursement to the developer for the cost to construct the turn lanes along Bailey Bridge Road at Holly View Parkway intersection, including any necessary right of way acquisition; that if the collector road and the associated improvements from Bailey Bridge Road to Brad McNeer Parkway were completed prior to the issuance of certificates of occupancy, the cash proffer could be used to construct the collector road through the property; and further she noted that when the Cash Proffer Policy was developed, the costs of customary road improvements, such as turn lanes and collector roads through the property, were not covered by the cash proffer calculations.

Ms. Peterson stated staff also recommended denial of the waiver to street connectivity requirements to Quailwood Road, as the application failed to comply with the Board's adopted "Residential Subdivision Connectivity Policy." She also referenced the Addendum correcting typographical errors in Proffered Conditions 11 and 13.

Mr. Jim Theobald, the applicant's representative, did not accept staff's recommendations, noting a mixture of residential uses was planned and that the applicant had agreed to limit development to a density of 2.2 dwelling units per acre, yielding approximately 484 dwelling units. He further addressed the issue of the construction of the bridge and collector road, noting, through discussions with Mr. Bass, the applicant was willing to consider an alternate scenario that if the collector road and the associated improvements from Bailey Bridge Road to Brad McNeer Parkway were completed prior to the issuance of certificates of occupancy, the cash proffer could be used to construct the collector road through the property; and if not, the applicant would maintain the option of building up to 200 homes prior to being required to construct the bridge and could still ask for credit for the turn lanes on Bailey Bridge Road. He addressed the request for a waiver to street connectivity to Quailwood Road, noting the connection would serve no purpose for meaningful access and residents along Quailwood Road opposed the connection.

Mr. Gecker opened the discussion for public comment.

Ms. Shelly Schuetz, a Matoaca District resident, and Ms. Dawn Tony, a resident of Quailwood Road, opposed the request, citing concerns relative to increased traffic volumes and lack of school and other public facility infrastructures.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Theobald stated the request did provide full cash proffers to mitigate the development's impact on schools, parks, libraries and fire stations and, with respect to transportation, had offered to complete major transportation improvements sooner than what would normally occur.

In response to questions from Mr. Gulley, Mr. McCracken stated, although he supported construction of the road delineated on the *Thoroughfare Plan*, he did not support reimbursement to the developer for the cost to construct on-site improvements such as the turn lanes along Bailey Bridge Road at Holly View Parkway intersection or right of way acquisition.

In response to questions from Mr. Bass, Mr. McCracken stated there were some turn lanes in place on Bailey Bridge Road but he was not sure they were sufficient to accommodate area needs.

Mr. Bass expressed concerns that the cost of constructing the bridge would be in excess of the amount of the transportation cash proffer.

In response to questions from Mr. Litton, Mr. McCracken stated he did not object to use of the cash proffers to construct the bridge but he did object to use of cash proffers for the construction of on-site roads.

Dr. Mike Etienne, representing the School Administration, addressed issues and answered questions relative to current enrollment capacities at Alberta Smith Elementary School; construction of the new Tomahawk Middle and Clover Hill High Schools providing relief to existing area school infrastructure; and the search for properties to the west for potential school sites to relieve the overcrowded school situation.

Mr. Bass noted this case provided a unique opportunity to build thoroughfare roads up front; that no connection should be made to Quailwood Road; and that new schools in the Capital Improvements Program would provide relief to the existing school infrastructure.

Mr. Gecker noted that the proffers permitted the construction of 200 dwellings prior to construction of the thoroughfare road which may not solve the transportation problem.

A motion by Mr. Bass to approve the request failed for lack of a second.

Mr. Gecker made an alternate motion that the Commission recommend denial of Case 06SN0234.

Mr. Gulley seconded the motion for discussion.

Messrs. Gecker, Gulley, Litton and Wilson indicated support for use of the cash proffer for bridge construction but not for construction of the thoroughfare road.

Messrs. Litton and Wilson suggested deferral so that the applicant could modify the proffers, accordingly.

In response to a question from Mr. Gecker and after conferring with his client, Mr. Theobald stated his client was willing to amend the proffered conditions, as suggested by the Commission, and requested a thirty (30) day deferral.

Mr. Gecker withdrew his motion to recommend denial of Case 06SN0234. Mr. Gulley withdrew his second.

The following motion was made at the applicant's request.

Mr. Wilson made a motion, seconded by Mr. Litton, that the Commission to defer Case 06SN0234 to the May 15, 2007, Planning Commission.

Mr. Bass commented that he felt he should make the motion for deferral since the request was in his district.

Mr. Wilson withdrew his motion for deferral and Mr. Litton withdrew his second.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to defer Case 06SN0234 to the May 15, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

07SN0136: In Matoaca Magisterial District, **PRISTINE DEVELOPMENT LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 189 acres fronting in two (2) places for approximately 670 feet on the north line of Duval Road approximately 1,650 feet west of Otterdale Road. Tax IDs 704-678-Part of 4771 and 705-680-3057.

Ms. Peterson presented an overview of the request and staff's recommendation for approval of the rezoning, noting the proposed zoning and land use complied with the *Upper Swift Creek Plan* and the proffered conditions adequately addressed the impacts of the development on necessary capital facilities. She stated staff recommended denial of the waiver to street connectivity requirements, noting that the proposal failed to comply with the Board's adopted "Residential Subdivision Connectivity Policy."

Mr. John Easter, the applicant's representative, accepted staff's recommendation for approval of the rezoning but not denial of the waiver to street connectivity requirements. He stated the applicant had proffered to contribute cash, in an amount consistent with the Board of Supervisors' Policy, towards mitigating the traffic impact of this development; had also proffered to reconstruct a substandard curve on Otterdale Road just north of the Summer Lake subdivision for an equivalent cash proffer payment credit and to complete this improvement prior to the issuance of any building permits on the property. He explained the rationale for requesting the street connectivity waiver, noting a through street was not required to conform to fire access requirements, that direct vehicular access from the property to Duval Road was limited to two (2) public roads; and there were development constraints on the property, specifically wetlands, which made it financially impractical to construct the bridge across the wetlands.

Mr. Gecker opened the discussion for public comment.

Ms. Kitty Snow, a Moseley resident, and Ms. Shelly Schuetz, a Matoaca District resident, cited concerns relative to the appropriateness of the timing of the request, overcrowded schools, the need for new and/or expanded parks and/or recreational/open spaces in the area and area road improvements to address

safety and accommodate the increase in traffic generated by this development and noted that, without adequate infrastructure, further residential zoning in the area would be irresponsible and dangerous.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Easter addressed previously expressed concerns relative to schools, road improvements, etc., noting the applicant was paying full cash proffers to address capital facilities needs.

Mr. Bass indicated that proposed capital improvements for schools would assist in current overcrowding problems; however, due to the condition of Otterdale Road, he could not support further development until the road is improved.

Mr. Bass made a motion to recommend denial of Case 07SN0136.

Mr. Gulley seconded his motion, for the purpose of discussion.

Discussion ensued relative to the proffers being offered by the applicant for improvements to Otterdale Road, schools and water quality.

Upon conclusion of the discussion, the applicant agreed to withdraw Proffered Condition 10 relative to water quality requirements.

The vote on Mr. Bass's motion was as follows:

AYES: Mr. Bass.
NAYS: Messrs. Gecker, Litton and Wilson.
ABSTENTION: Mr. Gulley

Due to a lack of a majority vote, the motion failed.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 07SN0136 and acceptance of proffered conditions 1 – 9, not accepting Proffered Condition 10 and renumbering Proffered Condition 11 as Proffered Condition 10:

PROFFERED CONDITIONS

The applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950) (as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns (the "Applicant"), proffers that the property under consideration (the "Property") will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the Applicant. In the event this request is denied or approved with conditions not agreed to by the Applicant, the proffers shall immediately be null and void and of no further force or effect:

1. Master Plan. The textual statement dated December 27, 2006 shall be considered the Master Plan. (P)

2. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Public Water and Wastewater. The public water and wastewater systems shall be used. (U)
4. Density. The total number of residential dwelling units on the Property shall not exceed two (2) units per acre. (P)
5. Impacts on Capital Facilities. The Applicant, subdivider, or assignee(s) ("Developer") shall pay the following to the County of Chesterfield for infrastructure improvements within the service district for the property:
 - a. For each of the first 175 building permits within the Property, in addition to any transportation improvements in accordance with proffered condition 8c, the following payment shall be made prior to issuance of each building permit:
 - i) If payment is made prior to July 1, 2007, \$6,685.00 per dwelling unit. At time of payment, \$6,685.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$404.00 for fire stations, and \$5,331.00 for schools; or
 - ii) If payment is made after June 30, 2007, the amount approved by the Board of Supervisors not to exceed \$6,685.00 per dwelling unit pro-rated as set forth in Proffered Condition 5(a)(i) above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006, and July 1 of the fiscal year in which the payment is made.
 - b. For each building permit within the Property in excess of a cumulative total of 175, the payment shall be as follows:
 - i) If payment is made prior to July 1, 2007, \$15,600.00 per dwelling unit. At time of payment, \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads and \$404.00 for fire stations and \$5,331.00 for schools; or
 - ii) If payment is made after June 30, 2007, the amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 5(b)(i) above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006, and July 1 of the fiscal year in which the payment is made.
 - iii) Payment for any roads portion of this cash proffer shall be made for each lot prior to recordation of the subdivision section in which the lot is located.

Payment for the remainder of the cash proffer for each lot shall be made prior to issuance of the building permit for that lot.

- c. In the event the transportation improvements specified in proffered condition 8c are provided, not by the Developer, but by others, as determined by the Transportation Department, then, notwithstanding the provisions of Proffered Condition 5a, for each building permit within the Property, regardless of the cumulative number of building permits, payments shall be made in accordance with Proffered Conditions 5b(i), 5b(ii), and 5b(iii) above.
 - d. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
 - e. If Chesterfield County imposes impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the County. (B & M)
6. Road Dedication. Prior to or in conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way on the north side of Duval Road, measured from the centerline of that part of Duval Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
7. Vehicular Access to Duval Road. Direct vehicular access from the Property to Duval Road shall be limited to two (2) public roads. The exact locations of these accesses shall be approved by the Transportation Department. (T)
8. Road Improvements. To provide an adequate roadway system, the Developer shall provide the following road improvements in accordance with a phasing plan approved by the Transportation Department:
- a. Construction of additional pavement along Duval Road at each public road intersection to provide right and left turn lanes into the Property, based on Transportation Department standards.
 - b. Widening/improving the north side of Duval Road to an eleven (11) foot wide travel lane, measured from the centerline of the existing pavement, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of Duval Road with one and one-half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage.
 - c. Reconstruction of two lanes of Otterdale Road to VDOT Urban Minor Arterial (50mph) standards, with any modifications approved by the Transportation Department, from point A to point B as shown on Exhibit A, prepared by Barthol

Design Associates and dated February 19, 2007. The exact location, design, and length of this improvement shall be approved by the Transportation Department.

- d. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the Developer is unable to acquire the "off-site" right-of-way that is necessary for such improvements, the Developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the Developer. In the event the County chooses not to assist the Developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only provide road improvements that can be accommodated within available right-of-way, as determined by the Transportation Department. (T)
9. Phasing Plan for Road Improvements. Prior to any construction plan approval, a phasing plan for the improvements identified in proffered condition 8 shall be submitted to and approved by the Transportation Department. The approved phasing plan shall require, among other things, completion, as determined by the Transportation Department, of the improvement identified in proffered condition 8c prior to the issuance of any building permits. (T)
10. Drainage. The Applicant shall make necessary improvements downstream of the culverts under Otterdale Road that carry the stream draining the Property such that those culverts will be fully functional to allow the normal stream to flow through them; provided that, if the Applicant submits documentation acceptable to Environmental Engineering indicating that, construction of such downstream improvements would not be sufficient to prevent flooding of that section of Otterdale Road as a result of a 10 year storm, then the Applicant shall, in lieu of such downstream improvements, design and construct stormwater facilities so that the 10 year post-development storm is retained on the Property and released at the 2 year pre-development rate. (EE)

AYES: Messrs. Gecker, Litton and Wilson.

NAY: Mr. Bass.

ABSTENTION: Mr. Gulley.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of the waiver to the "Residential Subdivision Connectivity Policy" requirements between the northern and southern portions of the development across the perennial stream for Case 07SN0136.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

07SN0143: In Midlothian Magisterial District, **J. B. BARNETT** requested rezoning and amendment of zoning district map from Residential (R-7) to Agricultural (A) with Conditional Use to permit a contractor's shop and storage yard. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for village shopping district use. This request lies on 0.7 acre and is known as 1224 Crowder Drive. Tax ID 729-708-2499.

Ms. Orr presented an overview of the request and staff's recommendation for denial, noting the request failed to comply with the *Midlothian Area Community Plan*.

Mr. J. B. Barnett, the applicant, did not accept staff's recommendation but was comfortable with the proffered conditions, as presented.

Mr. Gecker opened the discussion for public comment.

Mr. Peppy Jones, Chairman of the Village of Midlothian Volunteer Coalition, supported the request and asked the Commission to forward a favorable recommendation to the Board of Supervisors, noting the applicant had been a good neighbor and the use had not infringed upon area property owners' residential rights.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 07SN0143 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. This Conditional Use shall be granted to and for J. B. Barnett, exclusively, for a period not to exceed seven (7) years and shall not be transferable or run with the land. (P)
2. This Conditional Use shall be limited to the operation of a heating and air conditioning business, exclusively, and a maximum of six (6) employees, other than the applicant and his immediately family members, shall be permitted. (P)
3. Other than normal maintenance or improvements necessary to meet the Virginia Statewide Building Code, there shall be no exterior additions or alterations to the structures. (BI & P)
4. All work, with the exception of parking associated with the business, shall be conducted entirely within an enclosed building. (P)
5. One (1) sign shall be permitted and shall not exceed six (6) square feet. (P)
6. No more than five (5) customers shall be permitted on the property at any one (1) time. (P)
7. No deliveries shall be permitted before 8:00 a.m. or after 6:00 p.m. Deliveries shall not be permitted to or from the property by a tractor trailer truck. (P)
8. Hours of operation shall be restricted to between 7:00 a.m. and 9:00 p.m., Monday through Saturday. No Sunday operation shall be permitted. (P)
9. In addition to the heating and air conditioning business permitted as conditioned herein, uses permitted on the property shall be limited to those uses permitted by right or with

restrictions in the Agricultural (A) District, except that the following uses shall not be permitted:

- a. Model homes;
- b. Communications towers;
- c. Forestry operations and sawmills together with the incidental uses thereof;
- d. Private kennels; and
- e. Manufactured homes. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

Mr. Gecker requested that since Mr. Shewmake, representative for Case 07SN0152, Patricia H. Patton and Michael and Myrna T. McCaffery, had arrived, the case be moved back to its original sequence on the agenda.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission amended the agenda to move Case 07SN0152, Patricia H. Patton and Michael and Myrna T. McCaffery, from the end of the agenda to be heard at this time.

07SN0152: (Amended) In Matoaca Magisterial District, **PATRICIA H. PATTON AND MICHAEL AND MYRNA T. MCCAFFERY** requested rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor uses. This request lies on 12.5 acres fronting approximately 1,500 feet on the south line of Hull Street Road approximately 170 feet east of Mockingbird Lane. Tax ID 730-674-7150 and 731-674-2477.

Ms. Orr presented an overview of the request and staff's recommendation for denial, noting the proposed commercial zoning and land uses conflict with the recommendations of the adopted *Upper Swift Creek Plan*; the proposal did not provide for an integrated mixed use project (including office and residential uses of varying densities) nor did it address appropriate land use transitions; and the requested exception to setback requirements further increased the impact the proposed uses may have on adjacent residential development.

Mr. William Shemake, the applicant's representative, did not accept staff's recommendation, noting the request was an effort to bring business/commercial development to the corridor while fully adhering to the required architectural standards. He addressed area development trends, citing properties occupied by commercial, office, residential, day care and public utility uses; that direct vehicular access from the property was to Hull Street Road and was limited to one (1) entrance/exit; and that the applicant intended to comply with the seventy-five (75) foot buffer requirement and was willing to withdraw the buffer condition outlined in the "Request Analysis"

Mr. Gecker opened the discussion for public comment.

Ms. Valerie Swoap, a resident of Harbor Green Subdivision; Mr. Gary Rupe, a resident of Harbor Green Subdivision; Ms. Sharon Hoyle, an area resident; Ms. Colleen Harlowe and Mr. Tim Harlowe, residents of Mockingbird Lane; and Ms. Shelly Schuetz, a Matoaca District resident, voiced opposition to the request,

citing concerns relative to the inappropriateness of a hotel use within close proximity to a residential neighborhood; the hours of hours; increased traffic volumes; noise pollution; devaluation of property values; detrimental impact of the development on Swift Creek Reservoir; and the disruption of area residents' quality of life.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Shewmake stated hours of operation as related to retail uses were stipulated (Midnight to 6:00 a. m.); stated he felt the site was appropriate and a prime location for a hotel; that a seventy-five (75) foot buffer was being provided; that the proposed use was compatible with existing area development and trends; and asked the Commission to forward a favorable recommendation to the Board of Supervisors for consideration.

Mr. Bass stated there had been only one person in attendance at the community meeting regarding this request so he was surprised to see the number of individuals present in opposition; that he was familiar with the area and understood the residents' concerns, particularly relative to increased traffic volumes and cut-through traffic; and he felt a deferral would be appropriate so he could schedule another community meeting with area residents to discuss/address their concerns.

Mr. Gecker stated he felt the proposal plainly represented too much impact on the existing residential development and that he could not imagine, even with a sixty (60) day deferral, supporting the request without a great deal of effort being made and significant consideration given to providing adequate and sufficient transition from major commercial to residential neighborhood uses, thereby, protecting the adjacent residential properties.

On motion of Mr. Bass, seconded by Mr. Gulley the Commission, on their own motion, resolved to defer Case 07SN0152 to the June 19, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

07SN0255: In Midlothian Magisterial District, **REBKEE PARTNERS WESTCHESTER** requested rezoning and amendment of zoning district map from Agricultural (A) to General Industrial (I-2) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements and Conditional Use to permit commercial uses on property zoned General Industrial (I-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center use. This request lies on 26.0 acres fronting approximately 1,490 feet on the north line of Midlothian Turnpike, east of Huguenot Springs Road; also fronting approximately 335 feet on the east line of Huguenot Springs Road, south of Dragonnade Trail. Tax ID 714-711-Part of 2160.

Ms. Orr presented an overview of the request and staff's recommendation for approval of the rezoning, noting the proposed rezoning conformed to the *Route 288 Corridor Plan*; however staff did not recommend approval of the Conditional Use to permit commercial uses on a portion of the request property, noting that the request failed to comply with the *Route 288 Corridor Plan* as well as the criteria under which the *Plan* suggests the commercial uses would be appropriate and that approval of such would allow additional strip commercial development along the corridor.

Mr. John V. Cogbill, III, the applicant's representative, accepted staff's recommendation for the rezoning but did not accept staff's recommendation relative to the Conditional Use request. He presented an overview of the request; described the layout of the project as it pertained to open space, pedestrian access, orientation of buildings, setbacks, buffers and other elements; and asked the Commission to consider forwarding a favorable recommendation to the Board of Supervisors for consideration.

Mr. Gecker opened the discussion for public comment.

Ms. Shelly Schuetz, a Matoaca District resident, voiced support for the request, complimenting the project regarding open space and pedestrian access.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Gecker indicated he felt a recommendation for approval of the proposed General Industrial (I-2) zoning was appropriate, as it was consistent with the *Plan*; however, he did not feel the proposal for the Conditional Use to allow commercial development along Route 60 was appropriate, as it was contrary to the recommendation of the *Plan* and represented typical strip commercial development. He also emphasized that the Economic Development Department did not support the Conditional Use.

Mr. Cogbill indicated that the proffers would remain valid with such a recommendation.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend denial of the Conditional Use to permit commercial uses on 16.0 acres currently zoned General Industrial (I-2) and further resolved to recommend approval of the rezoning from Agricultural (A) to General Industrial (I-2) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements on 10.0 acres for Case 07SN0255 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The Owners and the Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the Property known as Chesterfield County Tax Identification Numbers part of 714-711-2160 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for I-2 with conditional use planned development and the conditional use is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

References to Road A and Road B are found on Exhibit B – Plan titled "Shoppes at Westchester West, Zoning Exhibit" prepared by Balzer and Associates, Inc., and last revised March 29, 2007, which is attached to the Textual Statement.

1. Dedication. The following rights-of-way shall be dedicated, free and unrestricted, to Chesterfield County, prior to any site plan approval or within sixty (60) days from a written request by the Transportation Department, whichever occurs first. The exact location of these rights-of-way shall be approved by the Transportation Department.

- A. Dedication of a ninety (90) foot wide right-of-way for the proposed east-west major arterial ("Road A") from the northern Property line to Route 60.
 - B. Dedication of a ninety (90) foot wide right-of-way for the proposed east-west major arterial ("Road B") from Road A to Huguenot Springs Road.
 - C. Dedication of forty-five (45) feet of right-of-way from the centerline of Huguenot Springs Road along that part of Huguenot Springs Road immediately adjacent to the Property.
2. Access.
- A. Direct vehicular access from the property to Huguenot Springs Road shall be limited to Road B.
 - B. Direct vehicular access from Road A to the portion of the Property west of Road A shall be limited to one (1) entrance/exit designed to preclude exiting the Property from traveling north on Road A. The exact design of this access shall be approved by the Transportation Department at the time of site plan approval.
 - C. Prior to any site plan approval, an access plan from the Property to Road A or Road B, shall be submitted to and approved by the Transportation Department. Vehicular access from the Property to these roads shall conform to the approved access plan.
3. Road Improvements. To provide an adequate roadway system, the Developer shall be responsible for the following improvements. If any of the improvements are provided by others, as determined by the Transportation Department, then the specific required improvement shall no longer be required of the Developer. The exact design and length of these improvements shall be approved by the Transportation Department.
- A. Construction of a four-lane divided road, to VDOT Urban Minor Arterial Standards (50MPH) with modifications approved by the Transportation Department, for Road A from the northern property line to Route 60.
 - B. Construction of a two-lane road, to VDOT Urban Minor Arterial Standards (50MPH) with modifications approved by the Transportation Department, for Road B from Road A to Huguenot Springs Road.
 - C. Improve/widen the east side of Huguenot Springs Road for the entire Property frontage to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department.

- D. Construction of additional pavement along Huguenot Springs Road at the Road B intersection to provide left and right turn lanes.
 - E. Construction of additional pavement along Road A, Road B, and at each approved access, including the Road A/Road B intersection, to provide left and right turn lanes, based on Transportation Department standards.
 - F. Construction of traffic management device(s) to control turning movements/access in accordance with Proffered Condition 2.B. above.
 - G. Construction of a new crossover on Route 60 to serve Road A, if approved by VDOT, including left turn lanes in both eastbound and westbound directions.
 - H. Construction of additional pavement along Route 60 at the Road A intersection to provide right turn lane.
 - I. Construction of additional pavement along Road A at its intersection with Route 60, to provide a six-lane typical section [i.e., two (2) northbound lanes and four (4) southbound lanes].
 - J. Full cost of traffic signalization at the Road B and Huguenot Springs Road intersection; at the Road A and Road B intersection; at the Route 60 and Road A intersection; and at each approved access onto Road A and onto Road B, if warranted, as determined by Transportation Department.
 - K. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the Developer is unable to acquire any "off-site" right-of-way that is necessary for the road improvements described in this Proffered Condition, the Developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Developer. In the event the County chooses not to assist the Developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department.
4. Phasing Plan. Prior to any site plan approval, a phasing plan for the improvements identified in proffered condition 3 shall be submitted to and approved by the Transportation Department.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

07SN0261: (Amended) In Bermuda Magisterial District, **TOP NOTCH CONTRACTING INC.** requested rezoning and amendment of zoning district map from Residential (R-7) to Corporate Office (O-2) and Residential Townhouse (R-TH) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or

Ordinance standards. The Comprehensive Plan suggests the property is appropriate for office/residential mixed use uses. This request lies on 1.6 acres and is known as 3810 West Hundred Road. Tax ID 791-656-2236.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting that while the proposed Corporate Office (O-2) zoning and land uses conformed to the *Chester Plan*, the proposed Residential Townhouse (R-TH) zoning did not conform to the *Plan*; the requirements offered for the Residential Townhouse (R-TH) portion of the development were not consistent with those typically required by the Commission or Board on similar higher density projects relative to open space, sidewalks, street trees and focal point; and the application failed to address crime prevention measures.

Mr. Whitley Blake, the applicant and property owner, did not accept staff's recommendation, noting there was an old house on the property, considered to be an icon in the Chester community, which he wished to preserve; that he had investigated several methods to develop the property and simultaneously maintain/renovate the dwelling; that in order to achieve his goal, he was requesting the townhouse density which would allow him to develop the property and be able to afford the renovation for the old home, a portion of which he intended to occupy as part of his corporate office headquarters and lease the remainder of the structure. He stated he had met with, and hopefully addressed/satisfied, any concerns or issues the surrounding residents had; had proffered conditions relative to architectural treatment that would ensure the townhouse development was one of quality and of which the community could be proud.

Mr. Gecker opened the discussion for public comment.

Mr. Clifton Clark, 11802 Dale Lane resident, stated he did not object to development of the property, provided access to his adjacent property was maintained.

Ms. Shelly Schuetz, a Matoaca District resident, expressed concerns relative to sidewalks, open space and alternative funding options for the renovation of the historic dwelling on the site. She also inquired as to Mr. Wilson's opinion of the long-term sustainability for area and the compatibility of the proposed project with other area townhome developments.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Blake stated he had proffered conditions to ensure Mr. Clark's concerns were addressed; that area trees of historic nature would be protected; and that the side buffer would be remain as open space and be enhanced with additional plantings. With respect to alternative sources of funding to restore the older structure/property, he stated there were no monies available to do so.

Mr. Wilson indicated that the applicant had worked diligently on the project with the adjacent property owners and the Chester Community Association and the proposed townhomes, while not in compliance with the *Plan*, would generate the revenue necessary to support renovation and conversion of the older on-site structure for office use.

On motion of Mr. Wilson seconded by Mr. Litton, the Commission resolved to recommend approval of Case 07SN0261 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Textual Statement. The Textual Statement dated March 27, 2007 shall be considered the Master Plan. (P)
2. Utilities. The public water and wastewater systems shall be used. (U)
3. Dedication. In conjunction with recordation of the initial subdivision plat, prior to any site plan approval, or within sixty (60) days from the date of a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way on the north side of West Hundred Road (Route 10), measured from the centerline of that part of Route 10 immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
4. Access. No direct vehicular access, except one (1) driveway that serves only one (1) residential structure, shall be provided from the property to Route 10. (T)
5. Drainage. All impervious areas that drain to the northeast corner towards Old Centralia Road shall be redirected to the drainage system at the northwest corner of the site. (EE)

We hereby proffer the following conditions for the Residential Townhouse (R-TH) portion of the property:

7. Impacts on Capital Facilities: The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the property:
 - a. \$15,600 per dwelling unit, if paid prior to July 1, 2007. At the time of payment, the \$15,600 shall be allocated pro-rata among the facility costs as follows: \$5,331 for schools, \$602 for parks, \$348 for library facilities, \$404 for fire stations, \$8,915 for roads; or
 - b. The amount approved by the Board of Supervisors not to exceed \$15,600 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. The payment shall be allocated pro-rata as set forth above.
 - c. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
 - d. If Chesterfield County imposes impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the County. (B&M)

8. Architectural Treatment:
 - a. The front facades of (5) of the dwelling units shall be brick and no two such units shall be contiguous.
 - b. No windows shall be located on the north side of the northern-most dwelling unit above the first story. (P)
9. Driveways. All private driveways shall be hard surfaced. (P)
10. Buffers:
 - a. A fifteen (15) foot buffer shall be provided along the northern property boundary. This buffer shall comply will the Zoning Ordinance requirements for buffers less than fifty (50) feet in width.
 - b. All buffers shall be located within recorded open space. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

07SN0275: In Matoaca Magisterial District, **JARED SWANSON** requested Conditional Use and amendment of zoning district map to permit a family day care home in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 0.3 acre and is known as 13732 War Admiral Drive. Tax ID 729-669-4038.

No one was present to represent the request.

No one came forward to speak in favor of, or in opposition to, the request and the public hearing was closed.

Ms. Peterson stated she had contacted the applicant via phone and the applicant indicated he had been unable to obtain signatures of support from those residing in proximity to the property and did not wish to proceed with the request.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend denial of Case 07SN0275.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

F. CITIZEN COMMENT ON UNSCHEDULED MATTERS.

Ms. Shelly Schuetz, a Matoaca District resident, expressed concerns relative to existing overcrowded school capacities not being isolated to one particular district and the impact that shifting of students from one school to another, when new schools are opened, has County-wide.

G. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Gulley, seconded by Mr. Wilson, that the meeting adjourned at 9:23 p. m. to May 3, 2007, at 7:00 p. m., in the Public Meeting Room at the Chesterfield County Government Complex.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

Chairman/Date

Secretary/Date